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Planning Commission Date: April 14, 2004

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: New Business

Report prepared by: James Lindsay

Public Hearing: Yes: _____ No: X

Notices Mailed On: N/A

Published On: N/A

Posted On: N/A

TITLE: ADMINISTRATIVE ITEM NO. AD2004-5

Proposal: Discussion of Decks as Impervious Surfaces in the Hillside District

RECOMMENDATION: No Action Necessary

Attachments: Hillside Ordinance
3/31/04 City Attorney Memo
10/18/94 CC minutes (Item No. 12)
8/31/94 PC minutes (Item Nos. 1 & 2)
8/31/92 CC minutes - adoption of the Hillside Ordinance

BACKGROUND

During its review of Variance No. VA2003-2, a request to exceed the maximum allowed impervious surface coverage at 510 Vista Spring Court, the Planning Commission requested staff to bring back an analysis of how the impervious surface restrictions in the Hillside District relate to wood decks and balconies. Staff has provided a timeline below to illustrate the history that has lead to today's current practice, as well as an analysis by the City Attorney's office.

August 1992

The City Council adopted new development standards for the Hillside Combining District (known as the Hillside Ordinance). One of the several purposes stated in the ordinance is

"...to create a special zoning district which insures an orderly and harmonious residential development that will minimize the amount of disturbance to the natural terrain" (Milpitas Municipal Code XI-10-45.01-5).

To help achieve that purpose, the ordinance limits the amount of impervious surface that can cover a parcel. On parcels less than three acres the amount of impervious surface (including the footprint of the residence) is limited to 8,000 square feet or 10% of the total lot area, whichever is greater, and the main residence can not exceed 6,000 square feet. On parcels three acres or greater the amount of impervious surface is limited to 10% of the total lot area but can not exceed 30,000

square feet and the maximum size of the main residence is 10,000 square feet. The stated intent of these standards is:

"...[to] allow for the site and area to remain in its natural setting, as much as possible, without incorporating unnatural man-made features. Impervious surfaces also increase stormwater runoff, which is to be considered in the design of the drainage system" (XI-10-45.17-1).

Impervious surface is defined as follows:

"Impervious surfaces are meant to include surfaces that will not allow or will greatly reduce the penetration of water into the ground. Impervious surfaces include the following: concrete, asphalt, bricks, paving stones, swimming pools, turf stones, plastic sheeting, compacted gravel and rock areas, and similar surfaces. Impervious surfaces shall also include any and/or accessory structures located on a specific site." (XI-10-45.17-2)

August 1994

During its review of a new hillside residence in Spring Valley Heights, the Planning Commission discussed whether wood decks were intended to be treated as impervious surfaces. A consensus of the Commission was not determined because the applicant withdrew the request for the wood deck during the meeting. However, members of the Commission and citizens who spoke during the hearing provided valuable information on the intent behind the drafting of this section of the ordinance.

October 1994

During the City Council's review of the same hillside residence the issue of wood decks was again discussed and the Council approved a motion that determined all types of decks (except second-story balconies) should be included in the impervious surface calculation

RECOMMENDATION

No action necessary.

MEMORANDUM

Department of the City Attorney



To: James Lindsay, Acting Planning Manager

From: Peter Spoerl, Assistant City Attorney

Subject: Status of Decks as Impervious Surfaces under Hillside Zoning Ordinance

Date: March 31, 2004

You have asked me to analyze whether decks constructed within the Hillside zoning district should be considered "impervious surfaces" for purposes of limitations on lot coverage. I will conclude that the plain language of the ordinance suggests that decks and related structures should be considered impervious surfaces if they significantly reduce groundwater penetration, and that the square footage of decks that fit such description should thus count toward allowable lot coverage limitations.

Discussion

The Hillside Ordinance, contained at Milpitas Municipal Code XI-10-45.01-45.18, establishes standards for impervious surface coverage. Section XI-10-45.17-2 provides a definition of "impervious surface":

"Impervious surfaces" are meant to include surfaces that will not allow or will greatly reduce the penetration of water into the ground. Impervious surfaces include the following: concrete, asphalt, bricks, paving stones, swimming pools, "turf stones," plastic sheeting, compacted gravel and rock areas, and similar surfaces. Impervious surfaces shall also include any and/or accessory structures located on a specific site.

The wording of the ordinance makes clear that the primary characteristic common to all impervious surfaces is a significant reduction of the penetration of water in the ground. The list following this general definition is clearly meant to be illustrative and not exhaustive. And notably, the list of examples includes surfaces that are at least semi-permeable (compacted gravel and rock areas), suggesting that the limitation, as expressed in XI-10-45.17-1, is aimed at preserving the natural character of the Hillside district and to address concerns related to stormwater runoff.

"Deck" is not defined under the zoning ordinance. A review of staff reports and Council meeting minutes suggests that the analysis might depend on the composition of each particular deck. For example, each wood board is probably solid for purposes of surface composition, but can be laid flush or with spaces between allowing for drainage between the slats. If there are spaces between the boards allowing for runoff, the deck might not necessarily "greatly reduce penetration of water into ground." However, if the deck had spaces between the slats, runoff

might concentrate in the spaces and create localized drainage problems. This distinction was addressed by Planning Commissioner Ciardella in a meeting from August 31, 1994. This memorandum will assume that a "deck" refers to an open, roofed or unroofed porch or platform extending from a house or other structure, or detached from other structures, consisting of a flat or nearly flat watertight surface formed by boards or slats that are flush to one another.

The wording of the last sentence of XI-10-45.17-2 is susceptible to different interpretations. One could conclude that any "structures" as well as "accessory structures" are *per se* "impervious surfaces". A more plausible explanation, however, is that the Council wished to make expressly clear that impervious surface limitations should apply not only to principal buildings but also to accessory structures. This interpretation is supported by the Council Meeting minutes and contemporaneous staff reports associated with the adoption of the Hillside ordinance. During the meeting on August 31, 1992, Mayor McHugh, Councilmember Lee and Community Development Director Smith briefly discussed section XI-10-45.17, and agreed that the title of the section should include "accessory structure" to clarify that such structures would qualify as impervious surfaces. I found nothing in the record suggesting that decks, whether elevated or ground level, should not count toward square footage lot coverage restrictions.

In its meeting on October 18, 1994, the City Council affirmed that decks should be included in the calculation of impervious surfaces. During the meeting, the Council considered a request for approval of a single-family residence. Although the building plan had been amended to bring the impervious surface into conformity with applicable limitations, the applicant asked for a clarification from council on whether deck surfaces should be included in the impervious calculations. Several council members expressed their understanding that such surfaces were contemplated in the definition. After some discussion a motion was passed 3-1, determining that all types of decks (minus the second-story balconies) are included in the calculation of impervious surface area.

Conclusion

The plain language of section XI-10-45.17 suggests that decks and related structures are to be considered impervious surfaces for purposes of Hillside lot coverage limitations if they significantly reduce the penetration of water into the ground. Council direction has clarified that this understanding extends to all types of decks except for second-story balconies.

McCarthy Marketplace may increase ridership to bring back the bus service to the industrial areas; in the meantime, he thought the seniors could be accommodated through use of the senior van, he will work with the County through the Transportation Commission, and suggested a letter be sent from the Mayor to the County and Supervisor Gonzales expressing the Council's concerns. Mayor McHugh asked for a staff report on using the senior van.

MOTION to direct staff to prepare a report on the feasibility of using the City's senior van to schedule trips from the Senior Center and Terrace Gardens to the Great Mall and McCarthy Ranch Marketplace/Wal-Mart on a trial basis, prepare a letter from the Mayor to Supervisor Gonzales expressing the Council's concerns over the lack of bus service to the Great Mall; and to survey seniors at the Senior Center and Terrace Gardens to determine interest in having County bus service to the Great Mall and McCarthy Ranch Marketplace.

M/S: Lee, Lawson.

Ayes: 5

XIV. UNFINISHED BUSINESS

10.
Great Mall
Traffic Report

Mayor McHugh removed this item from the consent calendar at the request of the City Manager. City Engineer Mike McNeely reported that the directional signs on the City streets near the Mall have been installed, County staff has increased the green time on the left turn for eastbound Montague Expressway to Capitol Avenue during off peak hours, and County staff has verbally approved installation of a directional sign on the Montague Expressway median westerly of Main Street that would direct motorist to Great Mall Drive via Main Street. Mr. McNeely further reported that staff will report back at the November 15 Council meeting on the lengthening of the existing signal left-turn lane at Montague and Capitol.

MOTION to note receipt and file.

M/S: Livengood, Lee.

Ayes: 5

XV. NEW BUSINESS

11.
I-880 Intermodal
Corridor Study
(Alameda County)

Administrative Analyst Bob Browne reviewed the request to designate a Councilmember to serve on the Alameda County Congestion Management Agency I-880 Intermodal Corridor Study. Councilmember Lawson volunteered to serve.

MOTION to designate Councilmember Lawson as the primary representative and Councilmember Skyrud as the alternate to represent Milpitas on the I-880 Intermodal Corridor Study.

M/S: Livengood, Skyrud.

Ayes: 5

12.
'S' Zone Application
Hillside Residence
Spring Valley Heights
(Baltazar)

City Attorney Larsen explained the potential conflict of interest which may exist for Councilmembers living in the Hillside District and for Councilmembers who live more than 300 ft. but within 2,500 ft. of the Hillside District and whether or not this decision will have a financial affect which will either increase or decrease the value of their property by \$10,000. Vice Mayor Livengood stated that he believed this matter would not have an impact on his home; however, he lives within the Hillside District and would abstain from discussion and voting on this item.

Principal Planner Reliford reviewed the request of Elpido and Nellie Baltazar for approval to construct a 5,922 square foot single-family residence at 578 Vista Springs Court. Mr. Reliford described the proposed residence and reported that the Planning Commission, on August 31, 1994, recommended approval of the application subject to the applicants submitting revised plans to the Council limiting the amount of impervious surface to 8,000 square feet (for lots three acres or less as required by the Hillside Ordinance); the revised site plan indicates 7,942 square feet of impervious surface; however, the applicant was requesting that the Council determine whether the impervious surface definition includes decks.

Nellie Baltazar, the applicant, said their plans now conform to what the staff suggested; however, she would like to know the rationale for including decks and balconies in the impervious surface calculations for the sake of other developers who will be developing in the future and felt they should not be included in the impervious calculations.

Councilmember Lee commented that she served on the Hillside Ordinance Committee in preparing the existing ordinance and the Committee did not want to list every single impervious surface; it was her feeling that something that reduces the water penetration in the ground is impervious. Councilmember Skyrud agreed with Councilmember Lee because one of the criteria is artificial or manmade and he believed decking would be included in the definition and would be considered impervious. Mayor McHugh inquired if it did not mention it, would it be best to assume that it was not to be included and further inquired if there would be a problem construing this to mean that just those items mentioned would fall into the category of impervious. City Attorney Larsen responded you could construe the language that way; if there is some ambiguity, it would be appropriate to ask what the intent was also. Councilmember Lawson said he also agreed with Councilmembers Lee and Skyrud and with the staff interpretation; it was his understanding that the intent was to be more restrictive than less; he felt it better to be more restrictive than less restrictive.

MOTION to determine that all types of decks (minus the second-story balconies) are included in the calculation of impervious surface; determine that the access drive width, pony walls, and amount of grading is appropriate for this site; and approve the 'S' Zone application as submitted.

M/S: Lee, Lawson. Ayes: 3 Noes: 1 (McHugh) Abstain: 1 (Livengood)

Mayor McHugh stated he voted against the motion because of the definition of impervious surfaces.

XVI. RESOLUTIONS

14.
Classification
Plan
(Fire Department)

~~Mayor McHugh removed this item from the consent calendar and expressed concern for the additional expenditure of \$24,791 and asked for more information about the additional duties. Fire Chief Vern Hamilton responded that the plan was to create a generic classification which will allow rotation of the individuals which cannot be accomplished now. City Manager Moore commented that he had asked the Fire Chief to review the Fire Department operations and the staff recommendation reflected in part a restructuring of the Fire Department, specifically as it relates to these positions.~~

**APPROVAL OF
AGENDA:**

Chair Dixon called for approval of the agenda.

Motion to approve the agenda as posted.

M/S: Rush/Spencer AYES: 6 ABSENT: 1 (Wong)

**CONSENT
CALENDAR:**

Chair Dixon asked whether staff, the Commission, or anyone in the audience wished to add or remove any item on the consent calendar.

Mr. Rellford requested that item #5 be added with the recommendation of approval.

Commissioner Rush stated that he will abstain from voting on item #3 as he is a member of that church.

Motion to approve the consent calendar as amended with staff recommendation and special conditions as follows:

- * 3. "S" ZONE APPROVAL-AMENDMENT: Storage Shed for Church; 1715 E. Calaveras Blvd; Milpitas Bible Fellowship (Approved)
- * 4. "S" ZONE APPROVAL-AMENDMENT: "McDonald's" Logo on the Wal-Mart Building; 301 Ranch Drive; Drew Bardet, McDonald's Corporation (Approved)
- * 5. "S" ZONE APPROVAL-AMENDMENT: Amendment to Great Mall Sign Program for Building Sign for "Wonder Park"; 870. Great Mall Drive; Wade McClure. (Approved)

M/S: Rush/Manayan AYES: 6 ABSENT: 1 (Wong)

PUBLIC HEARINGS:

1&2, VARIANCE NO. 492
&"S" ZONE APPLICATION,
LOT 18, SPRING VALLEY
HEIGHTS

Variance No. 492 was continued from the August 24, 1994 Planning Commission meeting due to procedural concerns relating to Planning Commission Interpretations of the Hillside Ordinance. Principal Planner Rellford introduced Deputy City Attorney Cecilia Quick, who would respond to questions from the Commission about procedure.

Vice Chair Spencer asked whether there has been any clarification about the Planning Commission's intention when the Hillside Ordinance was adopted in 1992.

Chair Dixon said that at the time of the final draft of the Hillside Ordinance, the Commission drew lots for participation due to their 2500-foot proximity to the hillside district.

VARIANCE NO. 482 &"S"
ZONE APPLICATION,
LOT 18, SPRING VALLEY
HEIGHTS (CONT)

Chair Dixon stated that former Planning Commissioner Ed Unger confirmed her understanding that decks and any other man-made coverage were intended to be considered as "impervious surface" under the Hillside Ordinance adopted in 1992. Mrs. Dixon added that the Commission at that time determined that the fairest method would be to allow the property owner to deal with the 8,000 square foot impervious surface allocation in their own manner. This means that the owner could have a large home with reduced amenities or vice versa. Commissioner Rush agreed that this was the Commission's intent at that time.

Commissioner Ciardella asked for the definition of "impervious surface". Principal Planner Rellford read the definition from the Hillside Ordinance, Section 45.17-2: "Impervious surfaces are meant to include surfaces that will not allow or will greatly reduce the penetration of water into the ground. Impervious surfaces include the following: concrete, asphalt, bricks, paving stones, swimming pools, "turf stones", plastic sheeting, compacted gravel and rock areas, and similar surfaces. Impervious surfaces shall also include any and/or accessory structures located on a specific site."

Vice Chair Spencer remarked that listing examples may not include every intended item, and that the phrase "greatly reduce the penetration of water" specifies the intent. Commissioner Rush added that the Planning Commission had tried to cover all bases in the definition, but was working late into the night on this matter.

Chair Dixon stated that staff had written the definition and the Commission added "similar surfaces" to try to reflect this intent. She said that the Commission did not want to tell property owners what materials to use, so the compromise was to give the owner discretion up to the maximum square footage. She said that the intent was very clear, and that variances would have to stand on their own merit.

Principal Planner Rellford stated that in his experience 8,000 square feet is extremely generous, and that the intent is to preserve the natural features in the hillside.

Commissioner Trikha asked whether other cities used a similar definition, and Mr. Rellford said that the language is the same.

Commissioner Trikha stated that he has a home in the hillside, miles from the applicant's property, and that he does not feel that his property will be impacted by \$10,000. Deputy City Attorney Quick said that the 300 foot rule applies to decisions made about individual property. In this case however, if the Planning Commission makes a general interpretation affecting the hillside district, the 2500 foot rule applies and Mr. Trikha would need to abstain.

VARIANCE NO. 492 & "S"
ZONE APPLICATION,
LOT 18, SPRING VALLEY
HEIGHTS (CONT)

Commissioner Ciardella asked whether gravel is an impervious surface, as it is used for drainage purposes under decks. He also asked whether boulders are considered impervious surface. Chair Dixon said that decking today is different than ten years ago, and that it can be easily built on and screened in, causing an increase in the mass of the home's footprint. Commissioner Rush said that the Commission needs to address the issue of gravel when it becomes pertinent, but that the issue being discussed tonight is decking. He said that the intent of the ordinance was to keep the hills as natural as possible and when the rain comes down it hits the ground directly. Vice Chair Spencer stated that she supports the comments just made by Commissioner Rush, and that she is comfortable with the understanding of the Planning Commission members who sat on the Hillside Committee. Mrs. Spencer said that if the matter goes into further detail on interpretation rather than intent, then the matter should be handled at another meeting.

Chair Dixon requested Commission consensus that the intent of the Planning Commission was to include decks as impervious surface per the Hillside Ordinance.

Commissioner Manayan stated that he disagrees. Mr. Manayan said that such interpretation would create severe restrictions for property owners, and that decks should have been addressed explicitly. Chair Dixon said that she differs with Mr. Manayan because Mr. Unger and Mr. Rush have stated that it was their intention to include decks as impervious surface. Further she said, it was made public policy by the City Council.

Commissioner Trikha suggested that the City Council be asked to make the interpretation. Mr. Reliford stated that the "S" Zone Application will automatically go to the City Council, and that the Variance could go to the City Council depending on Planning Commission Action.

Commissioner Manayan asked whether there are any public records that specifically address decks, and asked why the Hillside Ordinance was not amended to include them. Mr. Reliford said that it seemed to staff it was intended as a "similar surface" that would not allow penetration of water into the ground. Mr. Reliford agreed that it was the spirit and intent to include decks.

Althea Polanski, 2083 Mesa Verde, stated that she attended many of the meetings of the Hillside Committee, and it was very clear to her that decks are included in the definition of impervious surface.

Chair Dixon asked again whether there is consensus that decks are intended to be considered impervious surface per the Hillside Ordinance.

Commissioner Ciardella commented that rainwater will drip over the sides of a deck. Commissioner Rush remarked that the point is that the intent of the ordinance is to keep the hillsides unobstructed. He noted that property owners sometimes cover patios without permits, and that 70% of homes he inspects have such construction done without permits.

VARIANCE NO. 492 & "S"
ZONE APPLICATION,
LOT 18, SPRING VALLEY
HEIGHTS (CONT)

Vice Chair Spencer said that she came into this meeting feeling very clear about the definition of impervious surface. She said she personally feels, however, that the discussion is becoming one of interpretation, in which case the process of abstaining and drawing lots for participation is required. Chair Dixon said that another option is to declare an impasse and pass the matter on to the City Council for determination. Vice Chair Spencer said that she would like the pony walls and other issues addressed by staff forwarded to the City Council for interpretation as well. Mr. Rellford commented that if the Planning Commission denies the variance, the applicant does have the right to appeal to the City Council.

Chair Dixon asked whether the Commission feels comfortable to address the applications with the exception of the matters to be referred to the City Council. Commissioner Manayan agreed. Commissioner Rush agreed, stating that he does not live within the affected area but that he would prefer that four Commissioners be selected by drawing to participate. Commissioner Trikha expressed agreement, stating that it does not affect his property by \$10,000. Commissioner Ciardella agreed that names should be drawn to participate. Vice Chair Spencer agreed to the procedure, and Chair Dixon also agreed, but wanted it to go on record that decks were intended to be included in the definition.

Deputy City Attorney Quick said that in a situation like this, there is less likelihood of a conflict of interest. She encouraged the Commission's decision to "draw straws". She also stated again that if action is limited to this specific property, Commissioner Trikha can participate, but that he should abstain if action is taken city-wide. Mr. Trikha stated that he would abstain.

The recording secretary drew Commissioners' names to participate as follows: Chair Dixon, Vice Chair Spencer, Commissioner Ciardella. Commissioner Rush was automatically included, as he does not live within the hillside district. Commissioners Manayan and Trikha left the podium at 8:15 p.m. and did not further participate in the discussion and action on these applications.

Principal Planner Rellford presented the staff reports concurrently for Variance No. 492 and "S" Zone Application for the single-family hillside residence at 518 Vista Springs Court, Lot 18, Spring Valley Heights. These items were continued from the meeting of August 24, 1994. Staff recommends denial of Variance No. 492 and continuance of the "S" Zone application to a date certain.

Chair Dixon announced that the public hearing remains open and invited members of the audience to speak.

Mr. Howard Kimble, 1782 Girard Drive, recalled that the Hillside Committee members had many lively discussions. He said that people need to understand what 8,000 square feet means, and that the newer Commissioners should read and understand the Hillside Ordinance.

VARIANCE NO. 492 & "S"
ZONE APPLICATION,
LOT 18, SPRING VALLEY
HEIGHTS (CONT)

The applicant's architect, Ramona Dimaculangan, of AD&D Associates Inc., stated that she has reduced the impervious surface area considerably, and she asked the Commission to consider the natural swale to be a hardship. Mrs. Dimaculangan said that Lot #18 has suffered from development of adjacent property. She added that the side deck could be easily eliminated and she could possibly make a reduction in the estate circle. Mrs. Dimaculangan remarked that she thinks this project was discriminated against from the first time it was presented to staff.

Chair Dixon clarified that the Commission is not criticizing the deck or targeting any particular amenity for deletion, but is addressing the over all allocation of 8,000 square feet of impervious surface.

Mrs. Baltazar commented that the Planning Commission is trying to do a good job, but that the interpretation aspect is wasting citizens' time. She stated that the intent should have been put into the record originally. Mrs. Baltazar observed that the Planning Commission talks about maintaining the natural terrain of the hills, but that her neighbor has graded and changed the terrain. Chair Dixon informed Mrs. Baltazar that such work was done prior to adoption of the Hillside Ordinance and may have helped cause the ordinance to be initiated.

Principal Planner Reliford stated that the applicant has the option of withdrawing the variance and revising plans to reduce the impervious surface coverage to 8,000 square feet. He said that if the Planning Commission denies the request and their decision is upheld upon appeal to the City Council, then the applicant will need to submit revised plans anyway. Mrs. Dimaculangan said that the owner wants a faster turnaround and will appeal the Commission's denial due to the very nature of this land.

Motion to Interpret that decks are an impervious surface per the intent of the Hillside Ordinance.

M/S: Rush/Spencer

Commissioner Clardella said that he feels a deck would not be an impervious surface if there were spaces between the boards. Vice Chair Spencer described a situation she knew of in which water did not drain directly between the boards but spilled off the sides. She said it cannot be assumed that everyone who builds a deck will leave appropriate space for drainage.

Mr. Reliford spoke with the architect and applicant during this time and reported that the applicant is proposing to remove the side deck so that the application can be acted upon tonight. Mrs. Dimaculangan announced that the impervious surface coverage could be reduced in various areas and publicly withdrew the application for Variance No. 492.

Chair Dixon asked the applicant to follow up with a letter of intent and revised site plans for City Council review.

The motion and second were withdrawn by Commissioner Rush and Vice Chair Spencer.

VARIANCE NO. 492 & "S"
ZONE APPLICATION,
LOT 18, SPRING VALLEY
HEIGHTS (CONT)

Motion to close the public hearing and to accept withdrawal of the application for Variance No. 492.

M/S: Rush/Spencer AYES: 4 (Dixon, Spencer, Ciardella, Rush)

The public hearing continued on the "S" Zone Application.

Responding to Chair Dixon, Mrs. Dimaculangan stated that there will be no import or export of material in connection with grading. She added that some portion of the 5' high pony walls are needed for sheer wall during the construction phase.

Commissioner Rush stated that in keeping with past practice the applicant is requested to provide a revised site plan showing removal of the side deck as proposed by the applicant this evening.

Motion to close the public hearing.

M/S: Rush/Ciardella AYES: 4 (Dixon, Spencer, Ciardella, Rush)

Motion to approve the "S" Zone Application as amended, with a special condition that the applicant provide a letter of Intent and a revised site plan showing reduction of impervious surface to 8,000 square feet including removal of the side deck.

M/S: Rush/Ciardella AYES: 4 (Dixon, Spencer, Ciardella, Rush)

(BREAK)

Chair Dixon called a break at 9:00 p.m. and reconvened the meeting at 9:15 p.m.

It was the consensus of the Commission to move Item #8 to the next order of business as it was the original reason for calling the meeting. Commissioners Trikha and Manayan returned to the podium at 9:15 p.m.

NEW BUSINESS:

8. GENERAL DEVELOPMENT POLICY: GASOLINE SERVICE STATIONS

Associate Planner Oteri presented the staff report for this work session item. At its meeting of April 19, 1994, the City Council referred the General Development Policy for "Gasoline Service Stations and Automotive Service Centers" to the Planning Commission to consider allowing mini-marts in conjunction with service stations and report back to the City Council with its recommendations. Mr. Oteri provided some historical background on the policy as well as some information on current trends. He read into the record a letter from Mr. Dan Manassau, 49 Sudbury Drive, in opposition to combining convenience stores with gasoline service stations due to potential drinking problems.

Mr. Oteri reported that there were no concerns expressed by the Fire Department, and that the Police Department indicated that they were unable to substantiate that the combination of gas stations and convenience stores contributes to problems. He said that city planners in San Jose felt that 24-hour stations created a place for youths to hang out.

SECTION 45 "H" HILLSIDE COMBINING DISTRICT**XI-10-45.01 Findings, Purpose and Intent**

The City Council of the City of Milpitas finds and declares:

- 45.01-1 The hillsides which are a part of the City and within its urban planning area represent a unique scenic asset to the community and a part of the history and tradition of the community.
- 45.01-2 The inventory of open space and natural scenery in the City and County is rapidly diminishing.
- 45.01-3 The congestion of traffic, commerce, development and people may require a counterbalance of pleasant vistas bearing in mind preservation and conservation of the natural landscaping and open space while at the same time permitting orderly and regulated residential development.
- 45.01-4 Pleasant communities attract business, industry and people. They improve public morale and pride and encourage public support for safe, healthful and productive development.
- 45.01-5 Citizens have shown that they wish this community to be attractive as well as clean and safe and that they want to avoid hillside visual pollution. Therefore, it is necessary to create a special zoning district which insures an orderly and harmonious residential development that will minimize the amount of disturbance to the natural terrain.
- 45.01-6 If Milpitas is to avoid the hillside safety, ecological/environmental, and financial disasters, which have occurred elsewhere in California, seismic risk, geologic hazards, fire protection, groundwater protection, flood prevention and erosion control require the regulation of hillside development as to density, construction practices, building sites and landscaping.
- 45.01-7 That all environmental concerns be included in hillside development (in order to take into account nationally recognized Pacific Flyway Habitat designations and not to disturb nesting areas or resting areas).
- 45.01-8 The purpose of the "H" Hillside Combining District is to promote and encourage the orderly development of the hillside area of the City by the application of regulations and requirements established to meet the particular problems associated with development of hillside areas, including but not limited to geologic problems, slope, safe access and visibility. (Ord. 38.672, 9-15-92)

XI-10-45.02 Establishment and Designation

"H" Hillside Combining Districts shall be established only in conjunction with other districts. An "H" designation shall be required in areas designated in the adopted General Plan as "Hillside" and may be combined with "R1" Single-Family Residential.

The provisions of this section shall apply in the "H" Hillside Combining District, in addition to those conditions specified for the basic zone classification. Where there is a conflict between these regulations and the regulations specified in the basic zone, the provisions in this section shall prevail. (Ord. 38.672, 9-15-92)

XI-10-45.03 Maximum Allowable Densities and Minimum Lot Sizes

The following requirements shall apply in the "H" Hillside Combining District:

45.03-1 The average land area per dwelling unit is determined by calculating the average slope of the parcel and then using this figure in the slope density equation to get minimum average land area per dwelling unit.

45.03-2 The slope density equation. If the parcel has an average slope of ten (10) percent or less, the average land area per dwelling unit shall be no less than ten (10) acres. If the parcel has an average slope of fifty (50) percent or more, the minimum average land area per dwelling unit shall be no less than eighty (80) acres. If the parcel has an average slope of ten (10) percent to fifty (50) percent, the average land area per dwelling unit shall be determined by the following equation:

$$a = \frac{1}{0.121875 - 0.0021875 S}$$

Where: 'a' is the average land area per dwelling; and
's' is the average slope of the lot in percent

45.03-3 Average slope shall be based on existing contours as shown on aerial maps on file in the office of the City Engineer dated April 1964. Where slope cannot be directly determined by observation, the average slope will be determined by the formula:

$$S = \frac{100}{A} \frac{L}{I}$$

Where I is the contour interval in feet;
 L is the combined length of the contour lines in scale feet; and
 A is the net area of the lot in square feet

Exhibit "B" is an example of the use of this formula.

45.03-4 The maximum number of dwelling units permitted in a subdivision shall be determined by dividing the gross land area by the average land area per dwelling unit, computed to the third significant figure, and then rounded to the nearest whole number.

45.03-5 Reduction of Density: The City may require a reduction in the number of dwelling units below the maximum otherwise permitted under this Section if the City determines that such reduction is necessary or appropriate by reason of site restrictions or geologic hazards.

45.03-6 Further Subdivision Prohibited: Upon recordation of a final subdivision or parcel map covering any site zoned "R1-H", no lots or parcels shown on such map may be thereafter further subdivided so as to increase the total density permitted under this Section for the entire subdivision or parcel depicted on the final map.

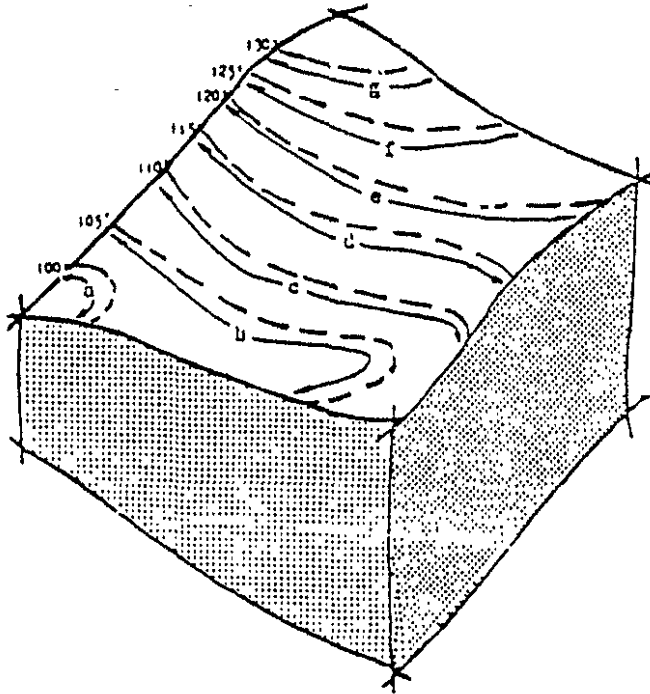
45.03-7 Exempted Lots: Any lot shown as a unit on a recorded subdivision or land division, or any lot otherwise legally created, is exempt from the density requirements set forth in this Section provided such lot was created prior to the effective date of the ordinance codified

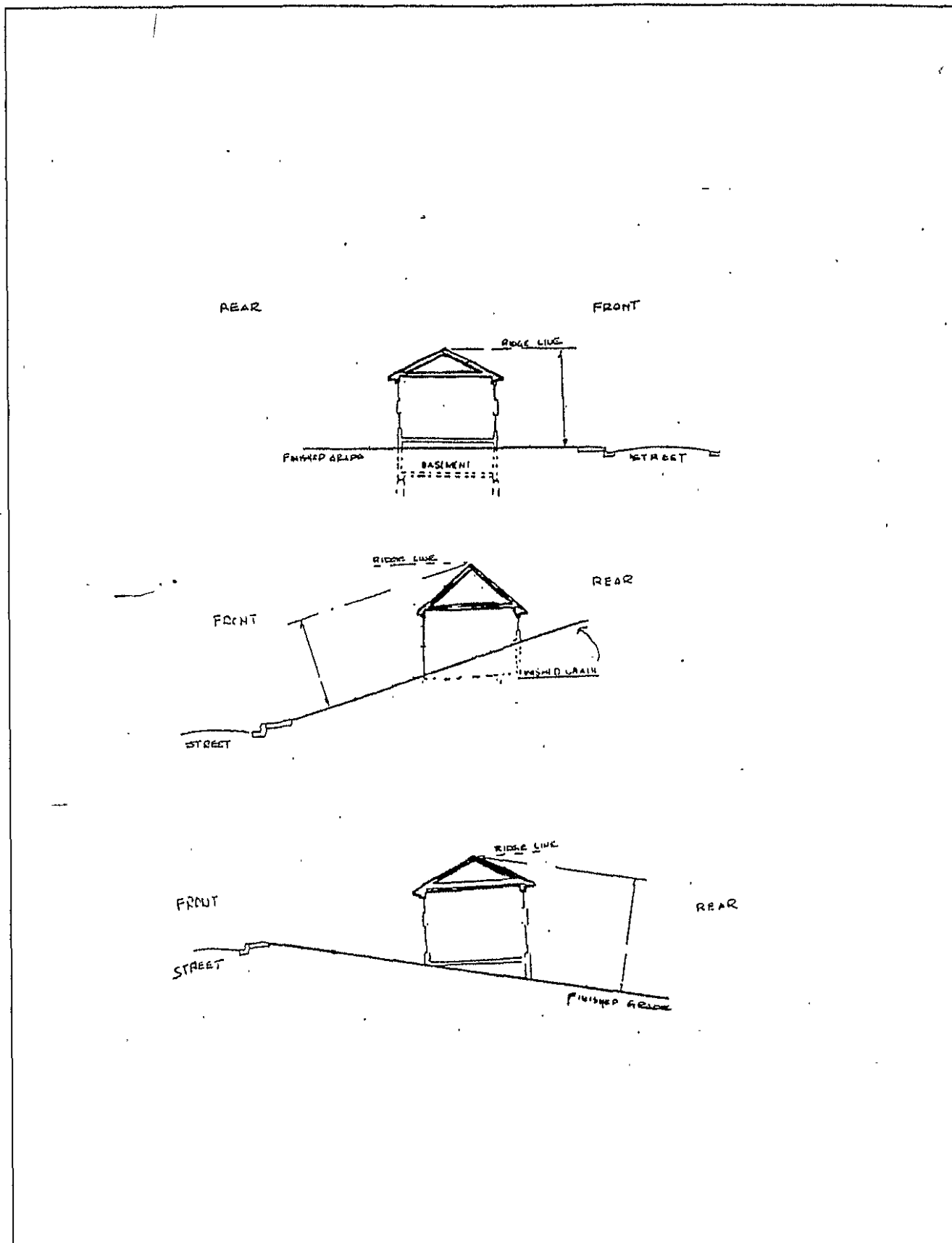
EXHIBIT "B"

Contour Interval = 5 feet (100', 105', 110', etc.)
 Contour Line Length = (a, b, c — g)
 Net Area of Lot = ten acres = 435,600 square feet

	Contour	Length Designation	Length in Feet
Contour Line Lengths	100'	a	500'
	105'	b	2250'
	110'	c	2100'
	115'	d	2000'
	120'	e	2050'
	125'	f	1500'
	130'	g	1000'
	TOTAL LENGTH		11,400'

$$\text{Slope} = \frac{100 \text{ IL}}{435,600} = \frac{100 (5) (11400)}{435,600} = 13\%$$





in this chapter. Any lot so exempted will not lose its exempt status if either of the following events takes place subsequent to the effective date of the ordinance codified in this chapter:

- a) A portion of the lot is exchanged for a portion of any adjoining lot, the result of which does not decrease the original square footage of the lot, or
- b) The lot is enlarged by the addition of land from any adjoining parcel.
- c) Under no circumstances shall the number of dwelling units be greater than the number permitted prior to any modification for lot line adjustment. (Ord. 38.672, 9-15-92)

45.03-8 Density Exception: Notwithstanding the density provisions of the "H" District set forth in XI-10-45.03, a commercial development which was approved prior to the October 15, 1992 effective date of the ordinance codified in this section may, upon site and architectural approval, pursuant to Section XI-10-45.03, be replaced with one less intensive single-family residential dwelling that complies with all other conditions of Section 45 and all other relevant provisions of the Municipal Code. (Ord. 38.732, 10-7-97)

XI-10-45.04 Height Regulations

- 45.04-1 Under no circumstances shall any main building on the west side of the crestline exceed a height of seventeen (17) feet and one (1) story (excluding basements) from the lowest finished grade to the highest ridgeline of the building.
- 45.04-2 Under no circumstances shall any main building on the east side of the crestline exceed a height of twenty-seven (27) feet and two (2) stories from the lowest finished grade to the highest ridgeline of the building.
- 45.04-3 Accessory structure(s) shall not exceed seventeen (17) feet and one (1) story from finished grade to the highest ridgeline of the building anywhere in the hillside. (Ord. 38.672, 9-15-92)

XI-10-45.05 Yard Requirements

For lands in the R1 residential zoning district, the following requirements shall apply:

- 45.01-1 All dwellings shall have a minimum side yard of forty (40) feet.
- 45.05-2 Minimum front yard setbacks shall be 25 feet when the average slope of the lot is less than sixteen (16) percent, or when the front yard slope does not exceed sixteen (16) percent; otherwise the minimum front yard setback shall be 40 feet.
- 45.05-3 The minimum rear yard setback for the principal dwelling shall be forty (40) feet. (Ord. 38.672, 9-15-92)

CITY OF MILPITAS

XI-10-45.06 Crestline Zone of Protection

- 45.06-1 The purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes immediately below, when viewed from the Valley Floor.
- 45.06-2 The crestline zone of protection is defined as the area westerly of the perceived crestline and between the perceived crestline and an elevation one hundred (100) feet below. In the area within three hundred (300) feet easterly of the crestline, structure heights shall be restricted so that no structure extends above the crestline site line.
- 45.06-3 The perceived crestline is the crestline identified when viewed from the three (3) closest viewpoints of those nine (9) shown on the zoning map and designated as "VP."
- 45.06-4 The land within the crestline zone of protection shall remain in a natural condition and structures, grading and non-native plant materials are prohibited. All fences constructed within the Crestline Zone of Protection shall be subject to review and approval by the Planning Commission.
- 45.06-5 In demonstrating compliance with the Crestline Zone of Protection, an applicant shall submit cross-sections from each of the three (3) closest viewpoints from their site. Each cross-section shall include the viewpoint, any proposed structure(s) on the applicants site, the perceived crestline, and the lower edge of the zone of protection. Each cross-section shall be drawn commencing from the closest viewpoint with lines projecting through the highest point of any and all structures. No structure may visually intrude into the "crestline zone of protection" area. Exception may be granted where development would not be visible from the three (3) closest viewpoints. (Ord. 38,672, 9-15-92)

XI-10-45.07 Special Provisions for PUD's in Hillside

- 45.07-1 When land in the Hillside is to be subdivided and is also approved as a PUD, the following rules shall apply in addition to those specified elsewhere in this chapter for PUD's.
- 45.07-2 There shall be no minimum lot size requirements for PUD's. Clustering of development for PUD's is encouraged and shall be located on not more than ten (10) percent of the total lot area that exists prior to any subdivision.
- 45.07-3 Land included in a PUD but not included in lots shall be held in common and shall be encumbered with an open space easement in favor of the City unless such common ownership and easement would be inconsistent with approved uses such as public streets or public utilities. (Ord. 38,672, 9-15-92)

XI-10-45.08 Open Space Easements

- 45.08-1 In any subdivision which is not approved as a PUD, at least fifty percent (50) of the gross area within the subdivision shall be encumbered with an open space easement in favor of the City. Side yard and front yard setback areas will not be allowed to be a part of nor encroach on the open space easement. Said easement shall be identified at the time of submittal of the tentative map.
- 45.08-2 Reconfiguration of the open space easement may be granted, at a public hearing, by the City Council provided that the area (net acreage) is not decreased.
- 45.08-3 No open space easement dedicated to the City within the "H" Hillside Combining District shall be abandoned by resolution of the City Council without a majority of those voting on the matter in a City election approving of such abandonment. The election shall be held

at one (1) of the regularly scheduled election dates for general law cities. (Ord. 38.672, 9-15-92)

XI-10-45.09 Site and Architectural Approval

45.09-1 Purpose.

It is the policy of the City to review the proposed construction or expansion of single-family dwellings and certain accessory structures under circumstances where such structures might constitute an invasion of privacy, unreasonable interference with views, light and air, and create adverse impacts upon the aesthetic character of neighboring residential structures. The purpose of this Section is to establish standards and procedures to be followed with respect to the design review of single-family dwellings and certain accessory structures to ensure that new development occurs in a manner which is consistent with the objectives of this Chapter and the policies of the General Plan.

45.09-2 Applicability—Requirement for Site and Architectural Review.

In each of the following cases, no building permit shall be issued for the construction or expansion of a single-family structure or accessory structure in any "H" District, until such structure has received a site and architectural review approval by the Planning Commission and City Council pursuant to this Section:

- (a) Prior to any grading;
- (b) Prior to construction of any new structure; or
- (c) Prior to any modification that requires a building permit, any interior alteration, or any alteration or conversion where such alteration or conversion does not result in any exterior modifications to the existing structure beyond the installation of skylights in the roof, installation of new windows or doors, fireplaces or chimneys, or any other minor alteration which in the opinion of the Community Development Manager meets the intent of this Subsection.

45.09-3 Application Requirements—Public Hearing.

Site plan and building elevations, which portray as accurately as possible the ultimate development of the lot, shall be submitted to the City. The plans shall include all structures, grading, landscaping, colors and materials.

45.09-4 The applicant shall in addition propose a "building envelope" within which all development other than specified minor improvements such as fences (permitted by Section XI-10-45.13, Fences) and driveways shall be located. [Also see Sec. 54.11]

45.09-5 A public hearing on the site and architectural review application shall be required at the Planning Commission level only. The review before the City Council shall not be a public hearing. Provided however, that any modifications or addition onto an existing structure, on parcels twenty thousand (20,000) square feet or less, shall not require a review by either the Planning Commission or City Council but said modifications or addition must comply with the site and architectural guidelines contained in this Section.

45.09-6 Application Materials

Application for site and architectural review ("S" Zone Approval) shall be made, with the Community Development Department, on a form prescribed for this purpose.

The application shall include the following exhibits such as, but not limited to:

- Site plan
- Building envelope and open space plan
- Existing topographic plan
- Architectural plan(s)
- Roof plan
- Floor plan(s)
- Line of sight-view restriction/obstruction analysis
- Landscape plan
- Crestline zone of protection plan, where appropriate
- Grading plan

The application shall be accompanied by the payment of a processing fee(s), in such amount(s) as established by the City Council.

45.09-7 Site and Architectural Guidelines

The Planning Commission and City Council shall consider the following guidelines in its review process:

- (a) Avoid Unreasonable Interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.
- (b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.
- (c) Minimize Perception of Excessive Bulk. The design of the proposed main and/or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.
- (d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.
- (e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria. (Ord. 38.672, 9-15-92)

XI-10-45.10 Slope Planting

The face of all cut and fill slopes may be required to be planted and maintained with a ground cover as recommended by the geotechnical report in order to protect the slopes against erosion as soon as practical and prior to the final approval of the grading. This plant material shall be shown on the landscape plan. (Ord. 38.672, 9-15-92)

XI-10-45.11 Residential Driveways and Parking

45.11-1 Privately owned and maintained access from the public road to each single-family dwelling shall be a minimum of fourteen (14) feet in width. Turning radius shall be designed to meet the Fire Department's requirements.

- 45.11-2 Turnout space shall be provided on driveways over one hundred fifty (150) feet in length with a maximum spacing of one hundred fifty (150) feet if roadway is less than eighteen (18) feet wide.
- 45.11-3 Turnaround. All dwelling units shall provide an on-site area for vehicles to turn around if served by a driveway over one hundred fifty (150) feet in length to meet Fire Department's requirements.
- 45.11-4 Vertical Clearance. All privately owned and maintained roads and drives shall assure a minimum fourteen (14) foot vertical clearance.
- 45.11-5 There shall be provided at the time of erection of any dwelling at least two (2) permanently maintained parking spaces on the same lot with the dwelling, for each dwelling unit. Said parking spaces shall be not less than ten (10) feet wide and twenty (20) feet long with adequate provisions for ingress and egress.
- 45.11-6 Private parking may be required to be located to the rear of the front setback line. Criteria used to determine need for parking to be located behind the front setback line shall be based on providing safe access which is harmonious with adjacent natural land slope, and structures existing and proposed.
- 45.11-7 The design of the driveway and parking areas shall consist of an all weather surface conforming to Section II-13-18, Paving Standards), and Section XI-10-54.03, Improvement of: Parking Areas, Auto Sales Areas and Loading Areas, of this code.
- 45.11-8 The Planning Commission and City Council may grant exceptions to the above requirements pursuant to the guidelines set forth in Subsection 45.09-7, Site and Architectural Guidelines, of this Section. (Ord. 38.672, 9-15-92)

XI-10-45.12 Non-Residential Off-Street Parking

Off-street parking shall be provided on-site for all nonresidential uses. The number and design of parking spaces shall be in accordance with Section XI-10-53, Off-Street Parking Regulations, and Section XI-10-54.03, Improvement of: Parking Areas, Auto Sales Areas and Loading Areas). (Ord. 38.672, 9-15-92)

XI-10-45.13 Fencing

Fencing on hillside lots shall be minimized and shall be of an open variety, except fencing around the immediate vicinity of each house. Fencing criteria will be found in Section XI-10-54.11, Fences. (Ord. 38.672, 9-15-92)

XI-10-45.14 Recreation Courts

- 45.14-1 Grading for tennis courts and other recreation courts shall not exceed six (6) feet of fill or twelve (12) feet of cut and fill. A site development application for a tennis or other recreation court which proposes grading in excess of the limits of this Chapter may be approved by the City upon finding that the excess cut or fill:
- (a) Will not result in slopes prone to landslides or soil creep;
 - (b) Can be landscaped and/or contours rounded to render the cut or fill inconspicuous when viewed from off the site; and

- (c) Can be properly drained according to methods approved by the Building Division.

45.14-2 Screening. Recreation courts shall be landscaped and screened so as to be unobtrusive from off-site. The structure will not be permitted unless this screening can be accomplished without interfering with the function of the structure.

45.14-3 Color. All surface and retaining walls shall be colored in natural tones and screened as appropriate so that the court is not conspicuous when viewed from off-site. (Ord. 38.672, 9-15-92)

XI-10-45.15 Outdoor Lighting

45.15-1 Tennis—Recreation Courts. No artificial lighting shall be permitted for tennis and other recreation courts.

45.15-2 Swimming Pools and Spas. Artificial lighting of swimming pools and spas shall be permitted only under the following conditions:

- (a) — Light(s) are placed beneath the surface of water in the pool or spa to illuminate the water;
- (b) Other exterior lights used to illuminate the surrounding area;
- (c) Light(s) use the minimum wattage which will safely illuminate the area;
- (d) —No direct light is cast beyond the immediate area of the pool or spa; and
- (e) No light sources are directly visible from off the site.

45.15-3 Outdoor Lighting—General. Outdoor lighting should use the minimum wattage lights which will safely illuminate the area. Outdoor light sources shall be shielded so as not to be directly visible from off-site. This section does not pertain to motion-induce/activated or motion-sensor security type lights. (Ord. 38.672, 9-15-92)

XI-10-45.16 Underfloor Clearance

All new single-family main structures and accessory buildings, or additions thereto, shall be designed to follow the slope of the site so as to reduce the clearance between ground-floor levels and finish grade to not more than five (5) feet. The underfloor clearance shall not be enclosed. The Planning Commission and City Council may grant exceptions to this requirement pursuant to the guidelines set forth in Subsection 45.09-7 of this Section. (Ord. 38.672, 9-15-92)

XI-10-45.17 Maximum Size of Residence, Accessory Structures, and Impervious Surface Coverage

45.17-1 Purpose and Intent.

The purpose and intent of limiting the amount of impervious surface coverage allows for the site and area to remain in its natural setting, as much as possible, without incorporating unnatural man-made features. Impervious surfaces also increase storm water runoff, which is to be considered in the design of drainage systems.

45.17-2 Definition.

"Impervious surfaces" are meant to include surfaces that will not allow or will greatly reduce the penetration of water into the ground. Impervious surfaces include the following: concrete, asphalt, bricks, paving stones, swimming pools, "turf stones," plastic sheeting, compacted gravel and rock areas, and similar surfaces. Impervious surfaces shall also include any and/or accessory structures located on a specific site.

(The City Council, on Oct. 18, 94, interpreted that wood decks are considered impervious surfaces).

45.17-3 On parcels less than three (3) acres, the amount of impervious surface on the site is limited to eight thousand (8,000) square feet or ten (10) percent of the total lot area whichever is greater (including the building footprint). The maximum size of the main residence shall not exceed six thousand (6,000) square feet.

45.17-4 On parcels three (3) acres or greater, the amount of impervious surface on the site is limited to ten (10) percent of the total lot area (including the building footprint). Under no circumstances shall the impervious surface coverage exceed thirty thousand (30,000) square feet. The maximum size of the main residence shall not exceed ten thousand (10,000) square feet.

45.17-5 The maximum size of an accessory structure shall not exceed one thousand two hundred (1,200) square feet. (Ord. 38.672, 9-15-92)

XI-10-45.18 Grading Requirements

45.18-1 Purpose and Intent.

The intent of this section is to regulate use, development and alteration of land in hill areas so that essential natural characteristics such as land form, vegetation and wildlife communities, scenic qualities, and open space can substantially be maintained; to preserve unique and significant geologic, biologic, and hydrologic features of public value; to encourage alternative approaches to conventional hillside construction practices by achieving land use patterns and intensities that are consistent with the natural characteristics of hill areas such as slope land form, vegetation and scenic quality. It is further the intent of this section to protect predominant views of and from hill areas in order to maintain the identity, image and environmental quality of the City; and to achieve land use densities that are in keeping with the General Plan.

45.18-2 Definition.

"Grading" shall mean an excavation or fill, or the stockpiling or any combination thereof, or the conditions resulting from any excavation or fill. All grading quantities shall be measured in their compacted state.

45.18-3 Design Standards and Requirements.

- (a) Grading will "blend" in with the natural land forms and native vegetation to the maximum extent feasible.
- (b) No grading cut or embankment with a slope greater than three (3) feet horizontal to one (1) foot vertical shall be located adjacent to a publicly maintained right-of-way. The applicant shall provide suitable guarantees, satisfactory to the Planning Commission, for landscaping and perpetual maintenance, at no cost to the City, of all slopes greater than fifteen (15) feet in total elevation.

- (c) Within six (6) months, or such other period established by the Planning Commission, after the commencement of grading activities, all graded areas not covered by an impervious surface shall be stabilized in such manner as shall be approved by the Community Development Manager.
- (d) Landscaping coverage and stabilization of graded slopes shall be selected and designed to be compatible with surrounding natural vegetation or to replace removed natural vegetation and should recognize climatic, soil and ecologic characteristics of the region. Plant materials that require excessive water after becoming established should be avoided. (Refer to illustrations.)
- (e) Trees which have a six (6) inch or greater diameter trunk size at a point three (3) feet above grade shall not be removed. The location of all such trees shall be shown on all plans submitted for approval. The Planning Commission, upon an application of an "S" Zone application approval, shall have the power to authorize removal, relocation, or replacement if the applicant can show that such requirement is unreasonable as applied to his particular property. If the removal is permitted, the replacement of any trees removed pursuant to this section shall be at a five to one (5:1) ratio.
- (f) The overall shape, height, grade or any cut-or-fill slopes shall be developed in concert with existing natural contours and scale of the natural terrain of a particular site. (Refer to illustrations.)
- (g) Where two cut-or-fill slopes intersect, the intersection shall be horizontally rounded and blended. (Refer to illustrations.)
- (h) Where any cut or fill slopes intersect the natural grade, the intersection of each slope shall be vertically and/or horizontally rounded and blended with the natural contours so as to present a natural slope appearance. (Refer to illustrations.)
- (i) Provide sites which fit into the terrain and allow for minimal amount of grading. Grading of any area of a site with a natural slope greater than forty (40) percent shall be prohibited.
- (j) Stepped building foundations shall be required to minimize grading on building pads. (Refer to illustrations.)
- (k) Streets shall be designed to generally follow the natural contours and land form in order to minimize cut and fill. Exposed walls and fences facing roadways and retaining walls shall be no greater than six (6) feet in height. Crib walls fencing roadways shall be no greater than fifteen (15) feet in height. (Refer to illustrations.)
- (l) Structures shall be designed to fit with the contours of the hillside and relate to overall form of the terrain. Structures shall be designed to fit into the hillside rather than altering the hillside to fit the structure. (Refer to illustrations.)

45.18-4 Development Plan Review Procedures

To further the specific purposes of this chapter, the following procedures are established:

- (a) Development Plan With Grading Under Five Hundred (500) Cubic Yards. Where the aggregate volume of grading on any site or contiguous group of sites is under five hundred (500) cubic yards, the Community Development Manager shall review the proposed Grading Plan. If the plan is found to be in conformance with the provisions of this chapter, the Grading Plan shall be

approved. In approving the plan, such conditions as are reasonably necessary to ensure compliance with the objectives of the chapter may be imposed.

- (b) Development Plan With Grading in Excess of Five Hundred (500) Cubic Yards. Where the aggregate volume of grading exceeds five hundred (500) cubic yards but is under one thousand five hundred (1,500) cubic yards, the Planning Commission shall review the proposed Grading Plan. If the plan is found to be in conformance with the provisions of the chapter, the Grading Plan shall be approved. In approving the plan, such conditions as are reasonably necessary to ensure compliance with the objectives of this chapter may be imposed. On receipt of the recommendations of the Planning staff, the Planning Commission shall approve or deny the application.
- (c) Development Plan With Grading in Excess of One Thousand Five Hundred (1,500) Cubic Yards. Where the aggregate volume of grading exceeds one thousand five hundred (1,500) cubic yards, the Planning Commission shall review the proposed Grading Plan and recommend approval or denial to the City Council. If approval is recommended, such conditions as are reasonably necessary to secure substantially the objective of this chapter may be included. On receipt of the recommendations of the Planning Commission, the City Council shall approve or deny the application.

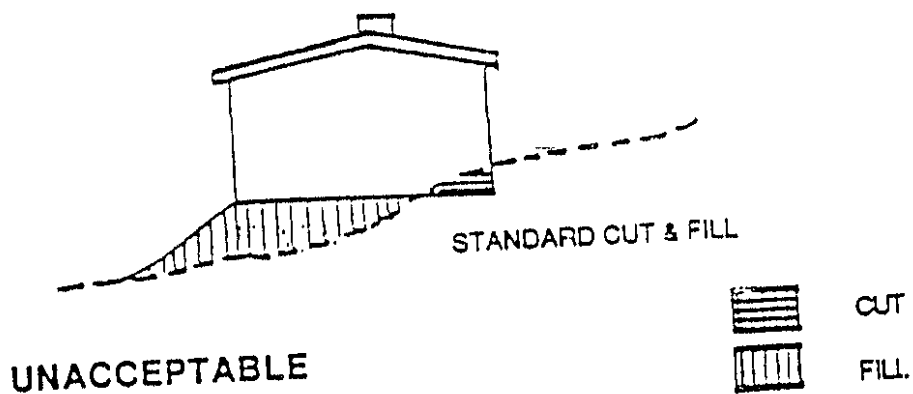
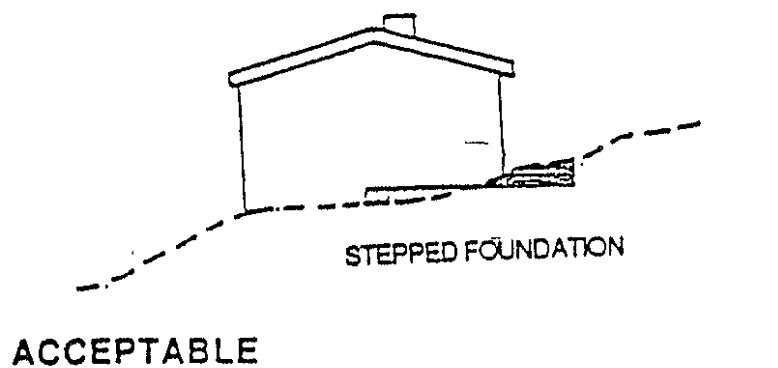
45.18-5 Grading Plan Requirements. Wherever proposed grading in the hillsides exceeds five hundred (500) cubic yards, the applicant shall submit grading plans prepared by a licensed Civil Engineer. Said grading plans shall include, but not be limited to, the following:

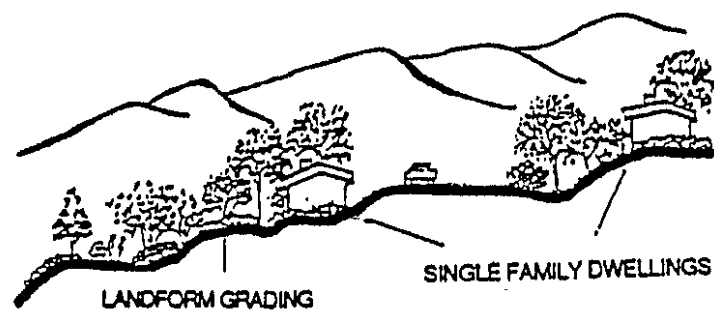
- (a) Property lines and accurate contours of existing and proposed elevations;
- (b) Cross-sections taken through at least two (2) planes normal to each other. Horizontal and vertical depiction's shall be made in the same scale;
- (c) Quantities of fill and excavating proposed in cubic yards;
- (d) Location of all existing and proposed structures; and
- (e) Location of existing trees which have a six (6) inch or greater trunk diameter at a point three (3) feet above grade, and details of the measures proposed to conserve such trees. (Ord. 38.672, 9-15-92)

(Ord. 38.672, 9/15/92 - This Section 45 was amended in its entirety)
 (Note included in section 45.17-2 regarding impervious surface interpretation)
 Ord. 38.732, 10-7-97 - Added Section 45.03-8

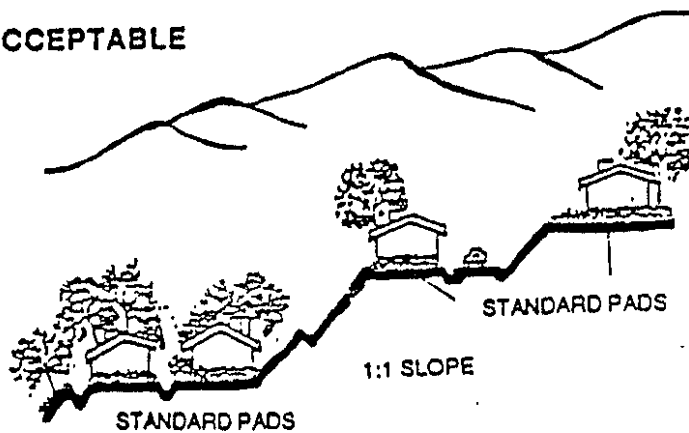
Illustrations for Section XI-10-45.18

STEPPED BUILDING FOUNDATIONS: STEPPED BUILDING FOUNDATIONS SHALL BE REQUIRED TO MINIMIZE GRADING ON BUILDABLE AREAS.

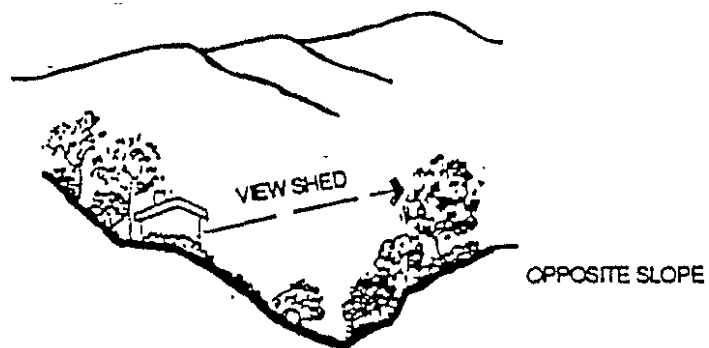




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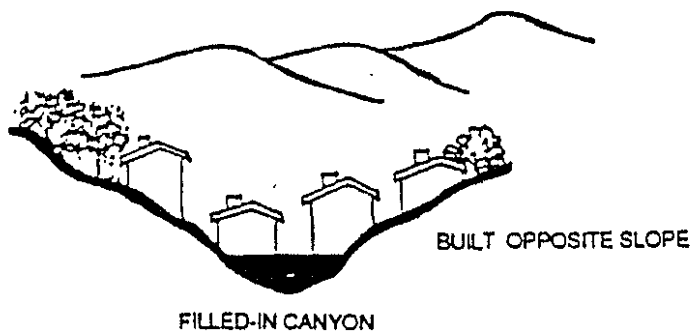


UNACCEPTABLE



ACCEPTABLE

OPEN CANYON



UNACCEPTABLE

LANDFORM GRADING

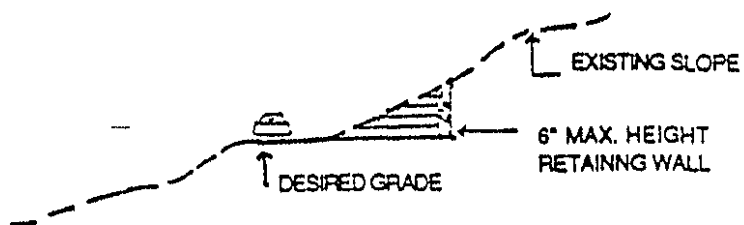
NATURAL CONTOURING

ACCEPTABLE

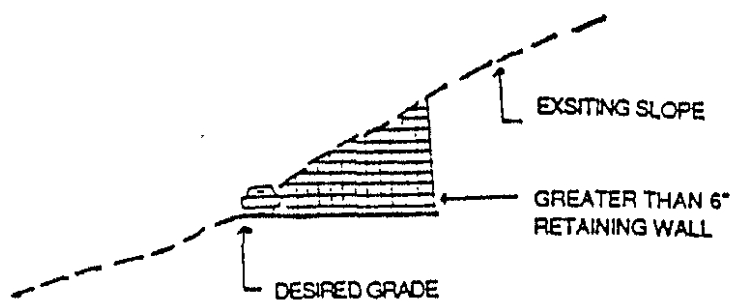
STANDARD CUT & FILL GRADING

CUT CONTOUR

UNACCEPTABLE



ACCEPTABLE



UNACCEPTABLE